

Remarks

On page 2 of the Office Action (Paper No. 20080428), the Examiner issued a twenty two-way restriction requirement pursuant to 35 USC § 121 and § 372. (Paper No: 20080428.) The restriction divided the claims into "the following inventions or group of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1":

- Group I drawn to "a polynucleotide encoding a polypeptide having L-sorbosone dehydrogenase activity comprising SEQ ID NO: 1, a vector comprising thereof and a fungal, plant or bacterial organism comprising thereof and a method of making L-sorbosone dehydrogenase" containing claim(s) 1-8, 1-17 and 22.
- Group II drawn to "a polynucleotide encoding a polypeptide having L-sorbosone dehydrogenase activity comprising SEQ ID NO:11, a vector comprising thereof and a fungal, plant or bacterial organism comprising thereof and a method of making L-sorbosone dehydrogenase" containing claim(s) 1-8, 1-17 and 22.
- Group III drawn to "a polynucleotide encoding a polypeptide having L-sorbosone dehydrogenase activity comprising SEQ ID NO:13, a vector comprising thereof and a fungal, plant or bacterial organism comprising thereof and a method of making L-sorbosone dehydrogenase" containing claim(s) 1-8, 1-17 and 22.
- Group IV drawn to "a polynucleotide encoding a polypeptide having L-sorbosone dehydrogenase activity comprising SEQ ID NO:15, a vector comprising thereof and a fungal, plant or bacterial organism comprising thereof and a method of making L-sorbosone dehydrogenase" containing claim(s) 1-8, 1-17 and 22.
- Group V drawn to "a polynucleotide encoding a polypeptide having L-sorbosone dehydrogenase activity comprising SEQ ID NO:17, a vector comprising

thereof and a fungal, plant or bacterial organism comprising thereof and a method of making L-sorbose dehydrogenase" containing claim(s) 1-8, 1-17 and 22.

Group VI drawn to "a polynucleotide encoding a polypeptide having L-sorbose dehydrogenase activity comprising SEQ ID NO:19, a vector comprising thereof and a fungal, plant or bacterial organism comprising thereof and a method of making L-sorbose dehydrogenase" containing claim(s) 1-8, 1-17 and 22.

Group VII drawn to "a polynucleotide encoding a polypeptide having L-sorbose dehydrogenase activity comprising SEQ ID NO:21, a vector comprising thereof and a fungal, plant or bacterial organism comprising thereof and a method of making L-sorbose dehydrogenase" containing claim(s) 1-8, 1-17 and 22.

Group VIII drawn to "a polynucleotide encoding a polypeptide having L-sorbose dehydrogenase activity comprising SEQ ID NO:26; a vector comprising thereof and a fungal, plant or bacterial organism comprising thereof and a method of making L-sorbose dehydrogenase" containing claim(s) 1-8, 1-17 and 22.

Group IX drawn to "a polypeptide of SEQ ID NO:2" containing claim(s) 9-11.

Group X drawn to "a polypeptide of SEQ ID NO:12" containing claim(s) 9-11.

Group XI drawn to "a polypeptide of SEQ ID NO:14" containing claim(s) 9-11.

Group XII drawn to "a polypeptide of SEQ ID NO:16" containing claim(s) 9-11.

Group XIII drawn to "a polypeptide of SEQ ID NO:18" containing claim(s) 9-11.

Group XIV drawn to "a polypeptide of SEQ ID NO:20" containing claim(s) 9-11.

Group XV drawn to "a polypeptide of SEQ ID NO:22" containing claim(s) 9-11.

Group XVI drawn to "a polypeptide of SEQ ID NO:27" containing claim(s) 9-11.

Group XVII drawn to "a transgenic animal" containing claim(s) 16 (in part) and 40.

Group XVIII drawn to "a process for the production of L-ascorbic acid using a recombinant organism" containing claim(s) 18 and 21.

Group XIX drawn to "a process for the production of L-ascorbic acid using a non-recombinant organism" containing claim(s) 19 and 41.

Group XX drawn to "a process for the production of L-ascorbic acid using a polypeptide having L-sorbose dehydrogenase activity" containing claim(s) 20.

Group XXI drawn to "a method of making L-sorbose dehydrogenase using non-recombinant organism" containing claim(s) 23.

Group XXII drawn to "a process for the production of vitamin C" containing claim(s) 24-39 and 42. (Id. at 2-4.)

In accordance with restriction practice, the subject matter of claims 9-11 directed to a polypeptide of SEQ ID NO:16 (Group XII), is hereby elected for prosecution with traverse.

It is submitted that the Examiner has already designated a species in the manner in which the restriction was made. The polypeptide of SEQ ID NO:16 is the species designated.

We respectfully request that upon finding claims 9-11 allowable with respect to SEQ ID NO:16, the Examiner broaden the search to the remaining subject matter of a polypeptide of claims 9-11 (Groups IX-XI and XIII-XVII).

It is also respectfully submitted that the Examiner has not shown that it would be unduly burdensome for the Examiner to search process claims that involve the use of a polypeptide of SEQ ID NO:16 in addition to searching a polypeptide of SEQ ID

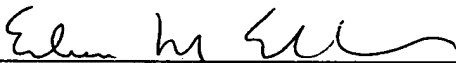
Application No.: 10/567,763
Dated: August 25, 2008
Reply to Office Action Dated: April 30, 2008

NO:16. It is requested that the Examiner remove the restriction requirement as to claims 18 and 21 (Group XVIII) and claim 20 (Group XX) where the species, if necessary to designate, is a polypeptide of SEQ ID NO:16.

In the alternative, we request rejoinder of the process claims as indicated by the Examiner on pages 5-6. In particular, if the restriction is not removed as to the noted process claims, we request rejoinder of these claims, *i.e.*, claims 18 and 21 (Group XVIII) and claim 20 (Group XX) where the species, if one is necessary to designate, is a polypeptide of SEQ ID NO:16.

The Examiner's early and favorable action in this application is respectfully requested.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on August 25, 2008.



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Respectfully submitted,

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